

§ 122C-270. Attorneys to represent the respondent and the State.

(a) In a superior court district or set of districts as defined in G.S. 7A-41.1 in which a State facility for the mentally ill is located, the Commission on Indigent Defense Services shall appoint an attorney licensed to practice in North Carolina as special counsel for indigent respondents who are mentally ill. These special counsel shall serve at the pleasure of the Commission, may not privately practice law, and shall receive annual compensation within the salary range for assistant public defenders as fixed by the Office of Indigent Defense Services. The special counsel shall represent all indigent respondents at all hearings, rehearings, and supplemental hearings held at the State facility. Special counsel shall determine indigency in accordance with G.S. 7A-450(a). Indigency is subject to redetermination by the presiding judge. If the respondent appeals, counsel for the appeal shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services.

(b) The State facility shall provide suitable office space for the counsel to meet privately with respondents. The Office of Indigent Defense Services shall provide secretarial and clerical service and necessary equipment and supplies for the office.

(c) In the event of a vacancy in the office of special counsel, counsel's incapacity, or a conflict of interest, counsel for indigents at hearings or rehearings may be assigned in accordance with rules adopted by the Office of Indigent Defense Services. No mileage or compensation for travel time is paid to a counsel appointed pursuant to this subsection. Counsel may also be so assigned when, in the opinion of the Director of the Office of Indigent Defense Services, the volume of cases warrants.

(d) At hearings held in counties other than those designated in subsection (a) of this section, counsel for indigent respondents shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services.

(e) If the respondent is committed to a non-State 24-hour facility, assigned counsel remains responsible for the respondent's representation at the trial level until discharged by order of district court, until the respondent is unconditionally discharged from the facility, or until the respondent voluntarily admits himself or herself to the facility. If the respondent is transferred to a State facility for the mentally ill, assigned counsel is discharged. If the respondent appeals, counsel for the appeal shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services.

(f) The Attorney General may employ four attorneys, one to be assigned by him full-time to each of the State facilities for the mentally ill, to represent the State's interest at commitment hearings, rehearings and supplemental hearings held under this Article at the State facilities for respondents admitted to those facilities pursuant to Part 3, 4, 7, or 8 of this Article or G.S. 15A-1321 and to provide liaison and consultation services concerning these matters. These attorneys are subject to Chapter 126 of the General Statutes and shall also perform additional duties as may be assigned by the Attorney General. The attorney employed by the Attorney General in accordance with G.S. 114-4.2B shall represent the State's interest at commitment hearings, rehearings and supplemental hearings held for respondents admitted to the University of North Carolina Hospitals at Chapel Hill pursuant to Part 3, 4, 7, or 8 of this Article or G.S. 15A-1321. (1973, c. 47, s. 2; c. 1408, s. 1; 1977, c. 400, s. 11; 1979, c. 915, s. 12; 1983, c. 275, ss. 1, 2; 1985, c. 589, s. 2; 1987 (Reg. Sess., 1988), c. 1037, s. 115; 1989, c. 141, s. 12; 1991, c. 257, s. 1; 1995 (Reg. Sess., 1996), c. 739, s. 12(a); 2000-144, s. 42; 2006-264, s. 61(a).)